

9 FAM 41.84 Notes

(TL:VISA-324; 10-10-2001)

9 FAM 41.84 N1 Background

(TL:VISA-324; 10-10-2001)

Section 107 of Pub. L. 106-386, the Victims of Trafficking and Violence Protection Act created a new nonimmigrant category (T) for aliens who the Attorney General has determined are victims of a "severe form of trafficking in persons". Note that only the Attorney General can place an alien in this category. The category is limited to 5,000 principal aliens per year.

9 FAM 41.84 N2 Defining "Severe Form of Trafficking in Persons"

(TL:VISA-324; 10-10-2001)

A "severe form of trafficking in persons" is defined as either:

(1) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion or in which the person induced to perform such act has not attained 18 years of age, or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

9 FAM 41.84 N3 Qualifying for T Visa Status

(TL:VISA-324; 10-10-2001)

To qualify for status as a T nonimmigrant, the alien must be a victim of a severe form of trafficking in persons as described in 9 FAM 41.84 N2 above. In addition the alien must:

(1) Be physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or a U.S. port of entry on account of such trafficking;

(2) Have complied with any reasonable request for assistance to law enforcement in the investigation or prosecution of acts of trafficking, or be under the age of 15; and

(3) Be likely to suffer extreme hardship involving unusual and severe harm upon removal.

9 FAM 41.84 N4 Derivatives of T Visa Holders

(TL:VISA-324; 10-10-2001)

In order to avoid extreme hardship, the spouse or child of a T visa applicant (or the spouse, child or parent of a T visa applicant under age 21) can be granted derivative status to accompany or follow to join the principal alien.

9 FAM 41.84 N5 Waiver of Grounds of Inadmissibility

(TL:VISA-324; 10-10-2001)

The Attorney General may in his or her discretion waive an alien's inadmissibility under INA 212(a)(1) or 212(a)(4) without condition. The Attorney General may also waive other inadmissibility grounds, except INA 212(a)(3), (10)(C) and (10)(E) if the inadmissibility is caused by or incident to the alien's victimization.

9 FAM 41.84 N6 Aliens Ineligible for T Nonimmigrant Status

(TL:VISA-324; 10-10-2001)

Pub. L. 106-386 also amended INA 214 by adding a new subsection (n) which prohibits a person who has engaged in a severe act of trafficking in persons from benefiting from the T nonimmigrant category.

9 FAM 41.84 N7 Adjustment of Status

(TL:VISA-324; 10-10-2001)

Under certain conditions the Attorney General may subsequently adjust the status of an alien in T nonimmigrant status to that of lawful permanent resident.